

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 10-28-03.

The IRO reviewed needle electromyography 95861 and 95869 on 3-26-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division. On 11-8-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

- Codes 95900, 95904, 95935, and 95925 were billed on 3-26-03. The carrier denied these charges as "F, JM – the medical fee guideline states in the importance of proper coding 'accurate coding of services rendered is essential for proper reimbursement', the services performed are not reimbursable as billed."
- The requestor billed 95900 and 95904 for NCV testing (motor and sensory nerves), 95935 for H&F reflex study, and 95925 for somatosensory testing. Per the 1996 Medical Fee Guideline Medicine ground rule IV. B. for services rendered prior to 8-1-03, these are the proper codes for these services. The requestor submitted an EMG/NCV Neurological Evaluation report dated 3-26-03. The report supports NCV testing, H&F reflex studies, and somatosensory testing. Therefore, recommended reimbursement as follows:
- 95900 – billed @ 4 nerves. Recommend reimbursement of \$64.00 x 4 nerves = \$256.00.
- 95904 – billed @ 4 nerves. Recommend reimbursement of \$64.00 x 4 nerves = \$256.00.
- 95935 – billed @ 6 units. Per MFG Medicine ground rule IV B 2 a., H & F wave studies are reimbursed per extremity regardless of the nerves

tested. The evaluation report supports tibial F-waves bilaterally and peroneal F-waves bilaterally. Per MFG Medicine ground rule IV B 2 b, if only one lower extremity is affected and the other was tested for comparison, then only one F-wave study will be reimbursed. Therefore, per rule recommend reimbursement of one F-wave study for lower extremity.

- MFG Medicine ground rule IV B 2 d. states if both lower extremities are tested, both may be reimbursed. Evaluation report supports posterior tibial H-reflexes bilaterally. Recommend reimbursement for two H-wave studies.
- Total reimbursement recommended for H & F wave studies is \$53.00 x 3 units = \$159.00.
- 95925 – billed @ 1 unit. Evaluation report supports somatosensory testing (evoked potential study). Recommend reimbursement of \$175.00.

### **ORDER**

**On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees outlined above as follows:**

- In accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.

This Order is applicable to date of service 3-26-03 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

The above Findings and Decision is hereby issued this 20th day of January 2005.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO Decision

November 4, 2004  
January 13, 2005

Rosalinda Lopez  
Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

**REVISED REPORT**  
**Corrected disputed services.**

Re: Medical Dispute Resolution  
MDR #: M5-05-0341-01  
TWCC#:  
Injured Employee:  
DOI:  
SS#:  
IRO Certificate No.: IRO 5055

Dear Ms. Lopez:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in chiropractic and is currently on the TWCC Approved Doctor List.

**REVIEWER'S REPORT**

**Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's  
Information provided by Requestor:

- Letter of medical necessity 03/20/03
- Correspondence to carrier 07/18/03
- Office notes 03/20/03 – 03/26/03
- Nerve conduction study 03/26/03
- Radiology report 12/13/02

Information provided by Respondent:

- Reports of medical evaluation & re-evaluation 08/27/04 & 09/27/04
- Independent medical examination 07/16/03

Information provided by Treating Doctor:

- Designated doctor evaluation 01/27/03
- FCE's 01/09/03 & 06/15/03

Information provided by spine surgeon:

- Office notes 02/14/03 – 09/04/03
- Procedure notes 04/09/03 – 10/27/03

Information provided by pain management specialist:

- Office note 09/15/04

**Clinical History:**

The claimant is a 46-year-old male who injured his lower back on \_\_\_\_ while working. He developed severe pain in his lower back, which radiated into his right hip and leg.

**Disputed Services:**

Needle electromyography (95861) and needle electromyography, limited study of specific muscles (95869) on 03/26/03.

**Decision:**

The reviewer agrees with the determination of the insurance carrier and is of the opinion that needle electromyography on 03/26/03 as stated above was not medically necessary in this case.

**Rationale:**

Worker's compensation claimants may have problems that require decision making for treatment and referrals. It is generally accepted that the treating physician and examining physician in the physical presence of the injured employee is in a better position to determine proper treatment, diagnostic tests, and/or referrals to address questions presented by the injured employee. However, in this case, the documentation submitted and reviewed does not support muscle testing on 03/26/03.

Sincerely,

Gilbert Prud'homme  
Secretary & General Counsel

GP:thh